This hearing has been cancelled. See page 22.

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Sequence Number: 08-10-22
Notice ID(s): 3548
File Date: 8/9/2022

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Board of Athletic Trainers
Division:	
Contact Person:	Elyse Nida, Associate Counsel
Address:	665 Mainstream Drive, Nashville, TN 37243
Phone:	(615) 741-1611
Email:	Elyse.Nida@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	710 James Robertson Parkway, Andrew Johnson Building, 5th Floor, Nashville, Tennessee 37243
Phone:	(615) 741-6354
Email:	Marci.Martinez@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Metro Center		
Address 2:	665 Mainstream Drive – Poplar Conference Room		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date:	11/03/2022		
Hearing Time:	9:00 A.M.	_X_CST/CDT ___EST/EDT	

Additional Hearing Information:

Revision Type (check all that apply):

X Amendment

__ New

__ Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0150-01	General Rules and Regulations Governing the Practice of Athletic Trainers
Rule Number	**Rule Title**
0150-01-.05	Licensure Process
0150-01-.06	Fees
0150-01-.07	Application Review, Approval, and Denial
0150-01-.09	Licensure Renewal and Reinstatement
0150-01-.11	Retirement and Reactivation of License
0150-01-.12	Continuing Education
0150-01-.15	Disciplinary Grounds, Actions, and Civil Penalties

Chapter 0150-01
General Rules and Regulations Governing the Practice of Athletic Trainers

Amendments

Rule 0150-01-.05 Licensure Process is amended by deleting subparagraph (2)(h) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

(2) (h) If an applicant holds or has ever held a license/certificate to practice as an athletic trainer in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each such licensing board which indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive. It is the applicant's responsibility to request this information be sent directly from each such licensing board to the Administrative Office.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-101, 63-6-101, 63-24-102, 63-24-103, 63-24-104, 63-24-105, 63-24-106, 63-24-111, and Public Chapter 694 of the Public Acts of 2000, Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.06 Fees is amended by deleting paragraph (4) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(4) Licensure reactivation fee $ 50.00

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-111, Public Chapter 389, Acts of 1989, and Public Chapter 694 of the Public Acts of 2000, Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.07 Application Review, Approval, and Denial is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(3) If an application is incomplete when received by the Administrative Office, or the reviewing Board member or the Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator will notify the applicant of the information required, including written notice that the applicant has 60 days to provide the requested information or the application will be deemed abandoned and closed. The applicant shall cause the requested information to be received in the Administrative Office on or before the sixtieth (60th) day after receipt of the notification. An application may be deemed abandoned and closed by the Board administrator if the applicant has not responded to a request for information within sixty (60) days after receipt of the notification. If that occurs, the applicant shall be notified that the Board will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant’s circumstances and submission of such new supporting documents as is required by the Board or the Board consultant.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-104, 63-24-105, 63-24-107, and 63-24-108. Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.09 Licensure Renewal and Reinstatement is amended by deleting subparagraph (2)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

(2) (b) Payment of the late renewal fee provided in rule 0150-01-.06; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-1-138, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-107, 63-24-

111, and Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.11 Retirement and Reactivation of License is amended by deleting subparagraph (3)(b) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

(3) (b) Complete and submit the Reactivation Application along with payment of the licensure renewal fee as provided in Rule 0150-01-.06 to the Administrative Office. If reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the licensure reactivation fee and a late renewal fee as provided in Rule 0150-01-.06; and

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-111, and Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.12 Continuing Education is amended by deleting paragraph (3) in its entirety and substituting instead the following language, so that as amended, the new paragraph shall read:

(3) Acceptable continuing education - To satisfy the requirements of this rule, the continuing education must be accepted in content, structure, and format for credit by the Board of Certification, Inc.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-111, and Authority and Public Chapter 872 of the Public Acts of 2006.

Rule 0150-01-.15 Disciplinary Grounds, Actions, and Civil Penalties is amended by deleting subparagraph (4)(c) in its entirety and substituting instead the following language, so that as amended, the new subparagraph shall read:

(4) (c) Form Petition

Petition for Order of Compliance
Board of Athletic Trainers

Petitioner's Name: _____
Petitioner's Mailing Address: _____
_____
_____

Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____
_____
_____

Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the _____ day of _____, 20____ .

_____
Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 4-5-320, 63-1-122, 63-1-134, 63-1-144, 63-6-101, 63-6-213, 63-6-214, 63-6-216, 63-24-101, 63-24-102, 63-24-107, 63-24-108, 63-24-110, 63-24-111, and, Authority and Public Chapter 872 of the Public Acts of 2006.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 08/08/2022

Signature: Elyse Nida

Name of Officer: Elyse Nida

Title of Officer: Associate Counsel, Department of Health

Department of State Use Only

Filed with the Department of State on: 8/9/2022

Tre Hargett

Tre Hargett
Secretary of State

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Division of Publications

0150-01-.05 LICENSURE PROCESS

To become licensed as an athletic trainer in Tennessee a person must comply with the following procedures and requirements:

(1) Grandfathering - Athletic trainers certified prior to May 9, 2000 must submit the documentation required by paragraphs (2)(f), (g) and (h) of this rule to be eligible to continue to practice as an athletic trainer and receive a license upon renewal of their existing certification.

(2) Licensure by examination:

(a) An application packet shall be requested from the Administrative Office.

(b) An applicant shall respond truthfully and completely to every question or request for information contained in the application form and submit it, along with all documentation and fees required by the form and rules, to the Administrative Office. It is the intent of this rule that activities necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all documentation be filed simultaneously.

(c) An applicant shall submit a clear, recognizable, recently taken bust photograph which shows the full head, face forward from at least the top of the shoulder up.

(d) It is the applicant's responsibility to request that a graduate transcript, from an athletic trainer curriculum of a college or university approved by the Board, be submitted directly from the educational institution to the Administrative Office. The transcript must show that the degree has been conferred and carry the official seal of the institution.

(e) An applicant shall submit evidence of good moral character. Such evidence shall be two recent (within the preceding 12 months) original letters from medical professionals, attesting to the applicant's personal character and professional ethics on the signator's letterhead.

(f) An applicant shall have BOC submit directly to the Administrative Office satisfactory proof of BOC certification or proof of being eligible for that certification.

(g) An applicant shall disclose the circumstances surrounding any of the following:

1. Conviction of any criminal law violation of any country, state or municipality, except minor traffic violations.

2. The denial of professional licensure/certification application by any other state or the discipline of licensure/certification in any state.

3. Loss or restriction of licensure/certification.

4. Any civil suit judgment or civil suit settlement in which the applicant was a party defendant including, without limitation, actions involving malpractice, breach of contract, antitrust activity or any other civil action remedy recognized under the country's or state's statutory common or case law.

5. Failure of any licensure or certification examination.

(h) If an applicant holds or has ever held a license/certificate to practice as an athletic trainer ~~any profession~~ in any other state, the applicant shall cause to be submitted the equivalent of a Tennessee Certificate of Endorsement (verification of licensure/certification) from each

such licensing board which indicates the applicant holds or held an active license/certificate and whether it is in good standing presently or was at the time it became inactive. It is the applicant's responsibility to request this information be sent directly from each such licensing board to the Administrative Office.

(i) An applicant shall submit the fees required in Rule 0150-01-.06.

(j) An applicant shall cause to be submitted documentation of successful completion of the examinations for licensure as governed by Rule 0150-01-.08. This verification must be submitted by the examining agency directly to the Administrative Office.

(k) The applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

(3) Licensure by Reciprocity. To become licensed in Tennessee as an athletic trainer based on licensure or certification in another state, an applicant must

(a) Comply with all the requirements of paragraph (2) of this rule except subparagraph (j).

(b) Be licensed or certified in a state that will license or certify athletic trainers licensed and residing in Tennessee without examination; and

(c) Hold a current, active athletic trainer license/certificate that is in good standing in another state; and

(d) Pay the fee required by Rule 0150-01-.06.

(e) Cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.

(4) Application review and licensure decisions shall be governed by Rule 0150-01-.07.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-1-101, 63-6-101, 63-24-102, 63-24-103, 63-24-104, 63-24-105, 63-24-106, 63-24-111, and Public Chapter 694 of the Public Acts of 2000, Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.06 FEES

All fees provided for in this rule are non-refundable.

(1)	Licensure application-examination fee to be submitted at the time of application	$200.00
(2)	Biennial renewal fee to be submitted at the time of application	$150.00
(3)	Late renewal fee	$100.00
(4)	Licensure reactivation~~restoration~~ fee	$ 50.00
(5)	Duplication of license fee	$ 5.00
(6)	Biennial state regulatory fee to be submitted at the time of application	$ 10.00

(7) All fees may be paid in person, by mail or electronically by cash, check, money order, or by credit and/or debit cards accepted by the Division. If the fees are paid by certified, personal or corporate check they must be drawn against an account in a United States Bank, and made payable to the Tennessee Board of Athletic Trainers.

Authority: T.C.A. §§ 4-3-1011, 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-111, Public Chapter 389, Acts of 1989, and Public Chapter 694 of the Public Acts of 2000, Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.07 APPLICATION REVIEW, APPROVAL, AND DENIAL

(1) Review of all applications to determine whether or not the application file is complete may be delegated to the Board's administrator.

(2) A temporary authorization to practice, as described in T.C.A. § 63-1-142 may be issued to an applicant pursuant to an initial determination made by a Board designee who has reviewed the completed application and determined that the applicant has met all the requirements for licensure, renewal or reinstatement. The temporary authorization to practice is valid for a period of six (6) months from the date of issuance of the temporary authorization to practice and may not be extended or renewed. If the Board subsequently makes a good faith determination that the applicant has not met all the requirements for licensure, renewal or reinstatement and therefore denies, limits, conditions or restricts licensure, renewal or reinstatement, the applicant may not invoke the doctrine of estoppel in a legal action brought against the state based upon the issuance of the temporary authorization to practice and the subsequent denial, limitation, conditioning or restricting of licensure.

(3) If an application is incomplete when received by the Administrative Office, or the reviewing Board member or the Board's designee determine additional information is required from an applicant before an initial determination can be made, the Board administrator will~~shall~~ notify the applicant of the information required, including written notice that the applicant has 60 days to provide the requested information or the application will be deemed abandoned and closed. The applicant shall cause the requested information to be received in the Administrative Office on or before the sixtieth (60th) day after receipt of the notification. An application may be deemed abandoned and closed by the Board administrator if the applicant has not responded to a request for information within sixty (60) days after receipt of the notification. If that occurs, the applicant shall be notified that the Board will not consider issuance of a license until a new application is received pursuant to the rules governing that process, including another payment of all fees applicable to the applicant's circumstances and submission of such new supporting documents as is required by the Board or the Board consultant.

(4) If a reviewing Board member or designee initially determines that a completed application should be denied, limited, conditioned or restricted, a temporary authorization shall not be issued. The applicant shall be informed of the initial decision and that a final determination on the application will be made by the Board at its next meeting. If the Board ratifies the initial denial, limitation, condition or restriction, the action shall become final and the following shall occur:

(a) A notification of the denial, limitation, condition or restriction shall be sent by the Board's Administrative Office by certified mail, return receipt requested. Specific reasons for denial, limitation, condition or restriction will be stated, such as incomplete information, unofficial records, examination failure, or matters judged insufficient for licensure, and such notification shall contain all the specific statutory or rule authorities for the denial, limitation, condition or restriction.

(b) The notification shall also contain a statement of the applicant's right to request a contested case hearing under the Tennessee Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.) to contest the denial, limitation, condition or restriction and the procedure necessary to accomplish that action.

(5) The initial determination procedures of this rule will not apply if the Board reviews and makes final determination on any application during its meetings.

(6) If the Board finds it has erred in the issuance of a license, the Board will give written notice by certified mail of its intent to revoke or cancel the license. The notice will allow the applicant the opportunity to meet the requirements for licensure within thirty (30) days from the date of receipt of the notification. If the applicant does not concur with the stated reason and the intent to revoke or cancel the license, the applicant shall have the right to proceed according to paragraph (4) of this rule.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-104, 63-24-105, 63-24-107, and 63-24-108. Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.09 LICENSURE RENEWAL AND REINSTATEMENT

(1) All licensees must renew their licenses to be able to legally continue in practice. License renewal is governed by the following:

(a) The due date for license renewal is its expiration date which is the last day of the month in which a license holder's birthday falls pursuant to the Division of Health Related Boards "biennial birthdate renewal system" contained in rule 1200-10-1-.10.

(b) Methods of Renewal - Licensees may accomplish renewal by one of the following methods:

1. Internet Renewals - Individuals may apply for renewal and pay the necessary fees via the Internet. The application to renew can be accessed at:

www.tennesseeanytime.org

2. Paper Renewals - Licensees who have not renewed their authorization online via the Internet will have a renewal application form mailed to them at the last address provided by them to the Board prior to the expiration date of their current license. Failure to receive such notification does not relieve the individual of the responsibility of timely meeting all requirements for renewal. To be eligible for renewal a licensee must submit to the Division of Health Related Boards on or before the license's expiration date the following:

(i) A completed and signed renewal application form.

(ii) The renewal and state regulatory fees as provided in Rule 0150-01-.06.

(c) Any renewal application received after the expiration date but before the last day of the month following the expiration date must be accompanied by the Late Renewal Fee provided in Rule 0150-01-.06.

(d) Any individual who fails to comply with the license renewal rules and/or notifications sent to them concerning failure to timely renew shall have their license processed pursuant to rule 1200-10-1-.10.

(e) Anyone submitting a signed renewal form, electronically or otherwise, which is found to be fraudulent or untrue may be subject to disciplinary action.

(f) Any licensee who receives notice of failure to timely renew pursuant to rule 1200-10-1-.10, and who, on or before the last day of the month following the month in which the license expires, executes and files in the Board's administrative office an affidavit of retirement pursuant to Rule 0150-01-.11 may have their license retired effective on their licensure expiration date.

(2) Licenses processed pursuant to rule 1200-10-1-.10 for failure to renew may be reinstated upon meeting the following conditions:

(a) Obtain, complete and submit a renewal/reinstatement/reactivation application; and

(b) Payment of ~~all past due renewal fees; and~~ the late renewal fee provided in rule 0150-01-.06; and

(c) Submit documentation demonstrating successful completion of the continuing education requirements, as provided in rule 0150-01-.12, which must have been completed pursuant to the schedule set out in Rule 0150-01-.12(1)(a); and

(d) If derogatory information or communication is received during the renewal process, if requested by the Board or its duly authorized representative, appear before the Board, a Board member, a screening panel when the individual is under investigation or the Board Designee for an interview and/or be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.

(e) Any licensee who fails to renew licensure prior to the expiration of the second (2nd) year after which renewal is due may be required to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.

(3) Renewal issuance and reinstatement decisions pursuant to this rule may be made administratively subject to review by the Board, any Board member or the Board Designee.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-107, 63-1-138, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-107, 63-24-111, and Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.11 RETIREMENT AND REACTIVATION OF LICENSE

(1) Licensees who wish to retain their licenses but not actively practice as an athletic trainer may avoid administrative revocation of licensure and/or compliance with the licensure renewal process by doing the following:

(a) Obtain, complete, and submit to the Administrative Office, an affidavit of retirement form.

(b) Submit any documentation that may be required by the form to the Administrative Office.

(2) Upon successful application for retirement of licensure with completion and receipt of all proper documentation to the Board's satisfaction, the Board shall register the license as retired. Any person who has a retired license may not practice as an athletic trainer in Tennessee.

(3) Reactivation - Any licensee whose license has been retired may re-enter active practice by doing the following:

(a) Submit a written request for a Reactivation Application to the Board Administrative Office; and

(b) Complete and submit the Reactivation Application along with payment of the licensure renewal fee as provided in Rule 0150-01-.06 to the Administrative Office. If reactivation was requested prior to the expiration of one (1) year from the date of retirement, the Board may require payment of the licensure reactivation~~restoration~~ fee and a late~~past due~~ renewal fee~~fees~~ as provided in Rule 0150-01-.06; and

(c) Submit documentation demonstrating successful completion of the continuing education requirements, as provided in rule 0150-01-.12, which must have been initiated and completed within the two (2) years prior to submission of the application for reactivation; and

(d) Submit any documentation which may be required by the form to the Board Administrative Office; and

(e) If requested, after review by the Board or a designated Board member, appear before either the Board, or another Board member, or the Board Designee for an interview regarding continued competence.

(f) In the event of licensure retirement or inactivity in excess of two (2) years or the receipt of derogatory information or communication during the reactivation process, the applicant should be prepared to meet or accept other conditions or restrictions as the Board may deem necessary to protect the public.

(g) An applicant who is currently under investigation may be required to appear before a screening panel of the Board.

(h) If licensure retirement was in excess of five (5) years, the licensee may be required to successfully complete whatever educational and/or testing requirements the Board feels necessary to establish current levels of competency.

(4) License reactivation applications shall be treated as licensure applications and review decisions shall be governed by Rule 0150-01-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-101, 63-6-101, 63-24-102, 63-24-105, 63-24-106, 63-24-111, and Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.12 CONTINUING EDUCATION

All persons licensed as athletic trainers must comply with the following continuing education rules.

(1) Continuing Education - Hours Required

(a) All athletic trainers must complete fifty (50) hours of acceptable continuing education during the two (2) calendar years (January 1 - December 31) that precede the licensure renewal year.

(b) For applicants approved for initial licensure by examination, successfully completing the requirements of Rules 0150-01-.05 and 0150-01-.08, as applicable, shall constitute compliance with this rule for the period preceding their first license renewal.

(c) For applicants approved for licensure by reciprocity, evidence demonstrating compliance with the continuing education requirements for their current, out-of-state active athletic trainer license or certificate shall constitute compliance with this rule for the period preceding their first license renewal.

(d) Any individual course will not be counted toward the required hourly total more than once per continuing education cycle, regardless of the number of times the course is attended or completed by any individual during that cycle.

(e) The Board may waive or otherwise modify the requirements of this rule in cases where there is retirement, illness, disability, or for other good cause that prevents a licensee from obtaining the requisite number of continuing education hours. Requests for waivers or modification should be sent in writing to the Board prior to the end of the continuing education cycle in which the continuing education is required to be obtained.

(2) Continuing Education - Proof of Compliance

(a) The due date for completion of the required continuing education is the December 31st immediately preceding the licensee's license expiration date.

(b) All athletic trainers must indicate, by their signature on the license renewal form, that they have completed the required number of continuing education hours in the continuing education cycle preceding renewal. An athletic trainer who falsely indicates on a renewal form that he or she has completed the required number of continuing education hours may be subject to discipline under T.C.A. § 63-24-107(b)(6) and Rule 0150-01-.15(1)(c).

(c) All athletic trainers must retain documentation of completion of all continuing education hours. This documentation must be retained for a period of four (4) years from the end of each renewal cycle in which the continuing education was acquired. This documentation must be produced for inspection and verification if requested in writing by the Board or its designee. Certificates verifying the licensed individual's completion of the continuing education program(s) should include:

1. Continuing education program's sponsor and BOC-approved provider number, date, length in minutes or hours awarded, program title, and licensee's name and license number; or

2. An original letter from the continuing education program's sponsor indicating the date, length in minutes or hours awarded, program title and BOC-approved provider number, and licensee's name and license number.

(d) If a person submits documentation for continuing education that is not clearly identifiable as acceptable continuing education, the Board may request a written description of the education and how it applies to the practice as an athletic trainer.

(3) Acceptable continuing education - To satisfy the requirements of this rule, the continuing education must be accepted~~approved~~ in content, structure, and format for credit by the Board of Certification, Inc~~BOC~~.

(4) Violations

(a) Any athletic trainer who falsely attests to completion of the required hours of continuing education may be subject to disciplinary action pursuant to Rule 0150-01-.15.

(b) Any athletic trainer who fails to obtain the required continuing education hours may be subject to disciplinary action pursuant to Rule 0150-01-.15 and may not be allowed to renew licensure.

(c) Continuing education hours obtained as a result of compliance with the terms of a Board order in any disciplinary action shall not be credited toward the continuing education hours required to be obtained in any continuing education cycle.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-6-101, 63-24-102, 63-24-111, and Authority and Public Chapter 872 of the Public Acts of 2006.

0150-01-.15 DISCIPLINARY GROUNDS, ACTIONS, AND CIVIL PENALTIES

(1) Grounds and Authority For Disciplinary Actions - The Board shall have the power to deny, limit, restrict or condition an application for a license to any applicant who applies for the same. The Board shall have the authority to suspend or revoke, reprimand or otherwise discipline any person holding a license to practice as an athletic trainer. The grounds upon which the Board shall exercise such power includes, but are not limited to, the following:

(a) Unprofessional, dishonorable, or unethical conduct;

(b) Violation or attempted violation, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of T.C.A. §§ 63-24-101, et seq., or any lawful order of the Board issued pursuant thereto, or any criminal statute of the state of Tennessee;

(c) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as an athletic trainer;

(d) Gross malpractice, or a pattern of continued or repeated malpractice, ignorance, negligence or incompetence in the course of practice as an athletic trainer;

(e) Habitual intoxication or personal misuse of any drugs or the use of intoxicating liquors, narcotics, controlled substances, or other drugs or stimulants in such manner as to adversely affect the person's ability to practice as an athletic trainer;

(f) Willfully betraying a professional secret;

(g) The advertising of an athletic trainer business in which untrue or misleading statements are made, or causing the publication or circulation of fraudulent advertising relative to any disease, human ailment, or conditions;

(h) Willful violation of the rules and regulations promulgated by the Board to regulate advertising by practitioners who are under the jurisdiction of such board;

(i) Conviction of a felony, conviction of any offense under state or federal drug laws;

(j) Making or signing in one's professional capacity any certificate that is known to be false at the time one makes or signs such certificate;

(k) Offering, undertaking, or agreeing to cure or treat a disease, injury, ailment or infirmity by a secret means, method, device or instrumentality;

(l) Giving or receiving, or aiding or abetting the giving or receiving of rebates, either directly or indirectly for referrals of business or patients;

(m) Engaging in the practice of an athletic trainer under a false or assumed name, or the impersonation of another practitioner, or a like, similar or different name;

(n) Engaging in the practice of an athletic trainer when mentally or physically unable to safely do so;

(o) Violation of the continuing education provisions of Rule 0150-01-.12;

(p) Violation of the scope of practice statutes T.C.A. § 63-24-101;

(q) Violation of the ethic code established in rule 0150-01-.13;

(r) Knowingly employing, contracting for or otherwise utilizing unlicensed persons in the practice of athletic training, with or without compensation;

(s) Failing to report violations committed by other licensees of Tennessee Code Annotated, Title 63, Chapter 24 and Official Compilation, Rules and Regulations, Chapter 0150-01;

(t) Disciplinary action against a person licensed, certified, registered, or permitted to practice as an athletic trainer by another state or territory of the United States for any acts or omissions which would constitute grounds for discipline of a person licensed in this state. A certified copy of the initial or final order or other equivalent document memorializing the disciplinary action from the disciplining state or territory shall constitute prima facie evidence of violation of this section and be sufficient grounds upon which to deny, restrict or condition licensure or renewal and/or discipline a person licensed in this state.

(2) Upon a finding by the Board that an athletic trainer has violated any provision of the T.C.A. §§ 63-24-101, et seq., or the rules promulgated pursuant thereto, the Board may take any of the following actions separately or in any combination which is deemed appropriate to the offense;

(a) Advisory Censure - This is a written action issued for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.

(b) Reprimand - This is a written action issued for one time and less severe violations. It is a formal disciplinary action.

(c) Probation - This is a formal disciplinary action which places an athletic trainer on close scrutiny for a fixed period of time. This action may be combined with conditions that must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.

(d) License Suspension - This is a formal disciplinary action that suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the license previously issued.

(e) License Revocation - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the licensure previously issued. The Board, in its discretion, may allow reinstatement of a revoked license upon conditions and after a period of time that it deems appropriate. No petition for reinstatement and no new application for licensure from a person whose license was revoked for cause shall be considered prior to the expiration of at least six (6) months from the effective date of the revocation order.

(f) Conditions - Any action deemed appropriate by the Board to be required of a disciplined licensee in any of the following circumstances:

1. During any period of probation, suspension; or

2. During any period of revocation after which the licensee may petition for an order of compliance to reinstate the revoked license; or

3. As a prerequisite to the lifting of probation or suspension or as a prerequisite to the reinstatement of a revoked license; or

4. As a stand-alone requirement(s) in any disciplinary order.

(g) Civil Penalties

1. Purpose - The purpose of this is to set out a schedule designating the minimum and maximum civil penalties which may be assessed pursuant to T.C.A. § 63-1-134.

2. Schedule of Civil Penalties

(i) A Type A civil penalty may be imposed whenever the Board finds the person who is required to be licensed or certified, permitted or authorized by the Board guilty of a willful and knowing violation of T.C.A. §§ 63-24-101, et seq., or regulations promulgated pursuant thereto, to such an extent that there is, or is likely to be an imminent, substantial threat to the health, safety and welfare of an individual client or the public. For purposes of this section, willfully and knowingly practicing as an athletic trainer without a license, certification or other authorization from the Board is one of the violations of T.C.A. §§ 63-24-101, et seq., for which a Type A civil penalty is assessable.

(ii) A Type B civil penalty may be imposed whenever the Board finds the person who is required to be licensed or certified, permitted or authorized by the Board is guilty of a violation of T.C.A. §§ 63-24-101, et seq., or regulations promulgated pursuant thereto, in such a manner as to impact directly on the care of patients or the public.

(iii) A Type C civil penalty may be imposed whenever the Board finds the person who is required to be licensed by the Board or certified, permitted or authorized by the Board is guilty of a violation of T.C.A. §§ 63-24-101, et seq., or regulations promulgated pursuant thereto, which are neither directly detrimental to the patients or public, nor directly impact their care, but have only indirect relationship to patient care or the public.

3. Amount of Civil Penalties

(i) Type A Civil Penalties shall be assessed in the amount of not less than $500 or more than $1,000.

(ii) Type B Civil Penalties may be assessed in the amount of not less than $100 and not more than $500.

(iii) Type C Civil Penalties may be assessed in the amount of not less than $50 and not more than $100.

4.Procedures for Assessing Civil Penalties

(i) The Division of Health Related Boards may initiate a civil penalty assessment by filing a Memorandum of Assessment of Civil Penalty. The Division shall state in the memorandum the facts and law upon which it relies in alleging a violation, the proposed amount of the civil penalty and the basis for such penalty. The Division may incorporate the Memorandum of Assessment of Civil Penalty with a Notice of Charges which may be issued attendant thereto.

(ii) Civil Penalties may also be initiated and assessed by the Board during consideration of any Notice of Charges. In addition, the Board may, upon good cause shown, assess a type and amount of civil penalty which was not recommended by the Division.

(iii) In assessing the civil penalties pursuant to these rules the Board may consider the following factors:

(I) Whether the amount imposed will be a substantial economic deterrent to the violator;

(II) The circumstances leading to the violation;

(III) The severity of the violation and the risk of harm to the public;

(IV) The economic benefits gained by the violator as a result of noncompliance; and,

(V) The interest of the public.

(iv) All proceedings for the assessment of civil penalties shall be governed by the contested case provisions of Title 4, Chapter 5, Tennessee Code Annotated.

(h) Assessment of Costs - Shall be as set forth in T.C.A. § 63-1-144.

(i) Summary Suspension - This is a formal preliminary disciplinary action which immediately suspends a licensee's right to practice as an athletic trainer until a final disposition of the matter is had after a promptly instituted, full hearing before the Board. This type of suspension is ordered ex parte, pursuant to the notice procedures contained in T.C.A. § 4-5-320 and then only upon a finding by the Board that the public health, safety or welfare imperatively requires emergency action.

(3) Once ordered, probation, suspension, revocation, assessment of a civil penalty, or any other condition of any type of disciplinary action may not be lifted unless and until the licensee petitions, pursuant to paragraph (4) of this rule, and appears before the Board after the period of initial probation, suspension, revocation, or other conditioning has run and all conditions placed on the probation, suspension, revocation, have been met, and after any civil penalties assessed have been paid.

(4) Order of Compliance - This procedure is a necessary adjunct to previously issued disciplinary orders and is available only when a petitioner has completely complied with the provisions of a previously issued disciplinary order, including an unlicensed practice civil penalty order, and wishes or is required to obtain an order reflecting that compliance.

(a) The Board will entertain petitions for an Order of Compliance as a supplement to a previously issued order upon strict compliance with the procedures set forth in subparagraph (b) in only the following three (3) circumstances:

1. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reflecting that compliance; or

2. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued lifting a previously ordered suspension or probation; or

3. When the petitioner can prove compliance with all the terms of the previously issued order and is seeking to have an order issued reinstating a license previously revoked.

(b) Procedures

1. The petitioner shall submit a Petition for Order of Compliance, as contained in subparagraph (c), to the Board's Administrative Office that shall contain all of the following:

   (i) A copy of the previously issued order; and

   (ii) A statement of which provision of subparagraph (a) the petitioner is relying upon as a basis for the requested order; and

   (iii) A copy of all documents that prove compliance with all the terms or conditions of the previously issued order. If proof of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed statements from every individual the petitioner intends to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

   (i) Certify compliance and have the matter scheduled for presentation to the Board as an uncontested matter; or

   (ii) Deny the petition, after consultation with legal staff, if compliance with all of the provisions of the previous order is not proven and notify the petitioner of what provisions remain to be fulfilled and/or what proof of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the Board finds that the petitioner has complied with all the terms of the previous order an Order of Compliance shall be issued.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes compliance with the order has been sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-1-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Athletic Trainers~~Medical Examiners~~

Petitioner's Name: _____
Petitioner's Mailing Address: _____
_____
_____
Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____
_____
_____
Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents, as substantiated by the attached documentation, that all provisions of the attached disciplinary order have been complied with and I am respectfully requesting: (circle one)

1. An order issued reflecting that compliance; or

2. An order issued reflecting that compliance and lifting a previously ordered suspension or probation; or

3. An order issued reflecting that compliance and reinstating a license previously revoked.

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show compliance is the testimony of any individual, including yourself, you must enclose signed statements from every individual you intend to rely upon attesting, under oath, to the compliance. The Board's consultant and administrative staff, in their discretion, may require such signed statements to be notarized. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____ , 20___ .

_____
Petitioner's Signature

(5) Order Modifications - This procedure is not intended to allow anyone under a previously issued disciplinary order, including an unlicensed practice civil penalty order, to modify any findings of fact, conclusions of law, or the reasons for the decision contained in the order. It is also not intended to allow a petition for a lesser disciplinary action, or civil penalty other than the one(s) previously

ordered. All such provisions of Board orders were subject to reconsideration and appeal under the provisions of the Uniform Administrative Procedures Act (T.C.A. §§ 4-5-301, et seq.). This procedure is not available as a substitute for reconsideration and/or appeal and is only available after all reconsideration and appeal rights have been either exhausted or not timely pursued. It is also not available for those who have accepted and been issued a reprimand.

(a) The Board will entertain petitions for modification of the disciplinary portion of previously issued orders upon strict compliance with the procedures set forth in subparagraph (b) only when the petitioner can prove that compliance with any one or more of the conditions or terms of the discipline previously ordered is impossible. For purposes of this rule the term "impossible" does not mean that compliance is inconvenient or impractical for personal, financial, scheduling or other reasons.

(b) Procedures

1. The petitioner shall submit a written and signed Petition for Order Modification on the form contained in subparagraph (c) to the Board's Administrative Office that shall contain all of the following:

   (i) A copy of the previously issued order; and

   (ii) A statement of why the petitioner believes it is impossible to comply with the order as issued; and

   (iii) A copy of all documents that proves that compliance is impossible. If proof of impossibility of compliance requires testimony of an individual(s), including that of the petitioner, the petitioner must submit signed and notarized statements from every individual the petitioner intends to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, the petition.

2. The Board authorizes its consultant and administrative staff to make an initial determination on the petition and take one of the following actions:

   (i) Certify impossibility of compliance and forward the petition to the Office of General Counsel for presentation to the Board as an uncontested matter; or

   (ii) Deny the petition, after consultation with legal staff, if impossibility of compliance with the provisions of the previous order is not proven and notify the petitioner of what proof of impossibility of compliance was either not sufficient or not submitted.

3. If the petition is presented to the Board the petitioner may not submit any additional documentation or testimony other than that contained in the petition as originally submitted.

4. If the petition is granted a new order shall be issued reflecting the modifications authorized by the Board that it deemed appropriate and necessary in relation to the violations found in the previous order.

5. If the petition is denied either initially by staff or after presentation to the Board and the petitioner believes impossibility of compliance with the order has been

sufficiently proven the petitioner may, as authorized by law, file a petition for a declaratory order pursuant to the provisions of T.C.A. § 4-5-223 and rule 1200-10-01-.11.

(c) Form Petition

Petition for Order of Compliance
Board of Athletic Trainers

Petitioner's Name: _____
Petitioner's Mailing Address: _____
_____
_____
Petitioner's E-Mail Address: _____
Telephone Number: _____

Attorney for Petitioner: _____
Attorney's Mailing Address: _____
_____
_____
Attorney's E-Mail Address: _____
Telephone Number: _____

The petitioner respectfully represents that for the following reasons, as substantiated by the attached documentation, the identified provisions of the attached disciplinary order are impossible for me to comply with:
_____
_____
_____
_____
_____
_____
_____
_____

Note - You must enclose all documents necessary to prove your request including a copy of the original order. If any of the proof you are relying upon to show impossibility is the testimony of any individual, including yourself, you must enclose signed and notarized statements from every individual you intend to rely upon attesting, under oath, to the reasons why compliance is impossible. No documentation or testimony other than that submitted will be considered in making an initial determination on, or a final order in response to, this petition.

Respectfully submitted this the ____ day of _____ , 20___ .

_____
Petitioner's Signature

Authority: T.C.A. §§ 4-5-202, 4-5-204, 4-5-217, 4-5-223, 4-5-320, 63-1-122, 63-1-134, 63-1-144, 63-6-101, 63-6-213, 63-6-214, 63-6-216, 63-24-101, 63-24-102, 63-24-107, 63-24-108, 63-24-110, 63-24-111, and, Authority and Public Chapter 872 of the Public Acts of 2006.

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Sequence Number: 11-03-22
File Date: 11/2/2022

Cancellation of Rulemaking Hearing Form

Agency/Board/Commission:	Board of Athletic Trainers
Division:	
Contact Person:	Elyse Nida, Associate Counsel
Address:	665 Mainstream Drive, Nashville, TN
Zip:	37243
Phone:	(615) 741-1611
Email:	Elyse.Nida@tn.gov

Cancelled Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Metro Center		
Address 2:	665 Mainstream Drive – Poplar Conference Room		
City:	Nashville, Tennessee		
Zip:	37243		
Hearing Date:	11/03/2022		
Hearing Time:	9:00 A.M.	_X_CST/CDT ___EST/EDT	

This cancellation refers to the following Notice of Rulemaking Hearing:

Cancelled Rulemaking Hearing Sequence Number: 08-10-22

Cancelled Rulemaking Hearing File Date: 08/09/2022

Additional Hearing Cancellation Information:

Date: 11/2/2022

Signature: Elyse Nida

Name of Officer: Elyse Nida

Title of Officer: Associate Counsel

RECEIVED

Nov 02 2022, 11:31 am

Secretary of State
Division of Publications